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July 21, 2014

VIA ECF

Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, New York 10007

Re: DIBA Family Limited Partnership, et al. v. David Ross, et al.: 13-cv-6384 (LGS) (JLC)

Dear Judge Schofield:

On behalf of defendants David Ross and Helen Werngren-Ross (the “Rosses”), we write in connection with the Rosses’ dismissal motion, which is now *sub judice*, to advise the Court that plaintiffs have admitted, now explicitly, that “the First Cause of Action has not been pursued” and that “the First Cause of Action has been discontinued.” Response to Defendants’ First Request to Plaintiffs for Production of Documents, dated July 14, 2014, ¶¶ 1, 10-12, 14. On July 15, 2014, and only after the dismissal motion became fully briefed, plaintiffs served their Response, an excerpt of which is attached.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Harry H. Rimm".

Harry H. Rimm

Enclosure
cc: Robert Gumenick, Esq. (Via ECF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DIBA FAMILY LIMITED PARTNERSHIP
AND 170 EAST 75TH LLC,

Plaintiffs,

-against-

DAVID ROSS AND HELEN WERNGREN-ROSS,

Defendants.
-----X

13 Civ. 6384 (LGS)(JLC)

RESPONSE TO DEFENDANTS'
FIRST REQUEST TO
PLAINTIFFS FOR
PRODUCTION OF
DOCUMENTS

PLAINTIFFS DIBA Family Limited Partnership and 170 East 75th LLC, responding to the Defendants' First Request to Plaintiffs for Production of Documents, sets for the following:

1. All documents and communications relating to the Rosses' rental of Unit 2-A at the Property.

Response - The question is irrelevant as the First Cause of Action has not been pursued. In any event, all such documents were obtained by counsel in connection with the Housing Court file.

2. The lease(s) relating to the Rosses' rental of Unit 2-A at the Property.

Response - The lease in question is annexed as Exhibit A.

3. All documents and communications relating to the proceedings before the Plaintiffs and the Rosses before the Housing Court, including, but not limited to, proceedings before the New York State Supreme Court and the Housing Court.

Response - To the extent such documents exist, they have been provided by copy in the entire Housing Court file. Plaintiffs were not parties to the Supreme Court

and Appellate Division proceedings, and have no documents, other than those in the Housing Court file, relating thereto.

4. All documents and communications relating to legal fees allegedly incurred by Plaintiffs, including, but not limited to, invoices, attorney worksheets and proof of payment, in connection with all proceedings between Plaintiffs and the Rosses before the Housing Court, including, but not limited to, proceedings before the New York State Supreme Court and the New York State Appellate Division.

Response - See Exhibit B provided in .pdf format.

5. All documents and communications relating to proceedings before Plaintiffs and Rosses before the New York State Division of Housing and Community Renewal (the "DHCR")

Response - Upon information and belief these documents are in the file at DHCR and not in the possession of the Plaintiffs nor accessible to the Plaintiffs at this time.

6. All documents and communications relating to legal fees allegedly incurred by Plaintiffs, including, but not limited to, invoices, attorney worksheets and proof of payment, in connection with all proceedings before the DHCR.

Response - See Exhibit B provided in .pdf format.

7. All documents and communications relating to Plaintiffs attempt to sell the Property, including, but not limited to, all documents and communications relating to Plaintiffs' negotiations with prospective purchasers of the Property.

Response - This Demand is irrelevant.

8. All documents and communications relating to the Plaintiffs' sale of the Property.

Response - This Demand is irrelevant.

9. The contract of sale for the Property.

Response - A true and correct copy has been provided in Plaintiffs' attorney's declaration in opposition to Defendants' motion to dismiss the Second Amended Complaint.

10. All documents and communications relating to all other Units at the Property leased by Plaintiffs, including, but not limited to, rent rolls, leases and proof of the payment of rent.

Response - This Demand is is irrelevant as the First Cause of Action has been discontinued.

11. All documents and communications relating to allegedly "lost rent" at the Property.

Response - This Demand is is irrelevant as the First Cause of Action has been discontinued.

12. All documents and communications relating to Plaintiffs calculation of purported damages relating to the First Cause of Action in the Second Amended Complaint

Response - This Demand is is irrelevant as the First Cause of Action has been discontinued.

13. All documents and communications relating to Plaintiffs' calculation of purported damages relating to the Second Cause of Action in the Second Amended

Compliant.

Response - See Exhibit B provided in .pdf format.

14. All documents and communications relating to the allegations in Paragraph 80 of the Second Amended Complaint.

Response - This Demand is is irrelevant as the First Cause of Action has been discontinued.

15. All documents and communications relating to the allegations in Paragraph 80 of the Second Amended Complaint.

Response - See Exhibit B provided in .pdf format.

16. All documents and communications relating to the allegations in the First Cause of Action in the Second Amended Complaint.

Response - See Exhibit B provided in .pdf format.

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17. All documents and communications relating to the allegations of the Second Cause of Action in the Second Amended Complaint.

Response - See Exhibit B provided in .pdf format.

Dated: New York, New York
July 14, 2014

LAW OFFICE OF ROBERT J. GUMENICK, P.C.

By: _____

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